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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CERTIFYING AN ADENDUM TO THE ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF MILPITAS NORTH MAIN STREET DEVELOPMENT PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City Council of the City of Milpitas, adopted Resolution No. 7497 certifying the Environmental Impact Report for the City of Milpitas North Main Street Development Project, and adopting required mitigations on January 4th 2005; and

WHEREAS, City staff determined that additional storm drain replacement in North Main Street and Marylinn Drive including the reconstruction of an existing storm drain outfall to Los Coches Creek is required to provide improved drainage for the new development of North Main Street; and

WHEREAS, the approved project EIR generally covered storm drainage work, the approval of an addendum to the EIR is a prudent means to include the storm drain extension and outfall work in the project; and

WHEREAS, the City's environmental consultants, David J. Powers & Associates, Inc., and HT Harvey and Associates prepared the subject EIR addendum; and

WHEREAS, The City Council/Milpitas Redevelopment Agency as the local agency has the authority to adopt the EIR addendum, which does not require circulation for public review and comment or other formal approval; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED that the Milpitas City Council certifies as follows:

A. That the final EIR approved January 4, 2005 for the Project was completed in compliance with CEQA and the CEQA Guidelines.

B. That the EIR addendum has been completed in compliance with CEQA and the CEQA Guidelines.

C. That the addendum to the EIR reflects the City Council's independent judgment and analysis on the potential for environmental effects of the Project.

D. That the EIR for the North Main Street Development together with the Addendum has been used as the environmental review for the revised project.

E. That the custodian of the documents and other materials that constitute the record of proceedings for the Project is the City of Milpitas Planning Division located at City Hall, 455 East Calaveras Boulevard, Milpitas, California 95035.

PASSED AND ADOPTED this _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PAR

ATTEST:

Mary Lavelle, City Clerk

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

APPROVED:

Jose S. Esteves, Mayor

ADDENDUM TO A CERTIFIED ENVIRONMENTAL IMPACT REPORT
NORTH MAIN STREET DEVELOPMENT PROJECT
MARYLINN DRIVE STORM DRAIN OUTFALL
FEBRUARY 2006

PURPOSE OF ADDENDUM

The California Environmental Quality Act (CEQA) recognizes that between the date projects are approved and the date they are constructed, one or more of the following changes may occur: 1) the scope of the project may change; 2) the environmental setting in which the project is located may change; 3) certain environmental laws, regulations or policies may change; and 4) previously unknown information can arise. CEQA requires that lead agencies evaluate these changes to determine whether or not there would be any changes in environmental impacts or required mitigation measures. CEQA allows Lead Agencies to prepare an Addendum to a previously certified Environmental Impact Report (EIR) or Negative Declaration, when it can be demonstrated that changes to a project, and the environmental impacts from such changes, are minor when compared to the original scope of the project and the original environmental impacts (CEQA Guidelines Sections 15164 and 15162).

The purpose of this Addendum is to document the environmental impacts associated with a proposed change in the scope of this project on this site, new information, and changes in circumstances, in accordance with the CEQA Guidelines and the City of Milpitas' requirements for the preparation of environmental documents. This addendum evaluates the environmental impacts of a proposed change to the approved North Main Street Development Project, as described in the EIR for the project (SCH#2004082131), certified by Resolution 7497, January 4, 2005.[1] The City proposes minor infrastructure changes to the project, as described below.

BACKGROUND AND DESCRIPTION OF THE PROPOSED CHANGES TO THE PROJECT

I. *Background*

The North Main Street Development (NMSD) Project includes several components. The Milpitas Library project would build a 60,000 square foot library and rehabilitate a historic grammar school. The Mid-Peninsula Housing Coalition would build 110 units for low-income seniors. Santa Clara County would build a development of a 60,000 square foot health care facility. Two parking structures would provide 800 parking spaces, 25,000 square feet of retail, and 25,000 square feet of banquet/meeting space. Street improvements, street closures, and a COGEN facility were also part of the project. The EIR generally described the storm drainage network and stated "new drainage facilities would be proposed as part of the project."

The portion of North Main Street and Railroad Avenue in the project area was the former State Route Oakland Road. In the 1950's, Caltrans installed the existing 36" by 22" diameter corrugated metal pipe (CMP) storm drain within North Main Street. The upstream end of the pipe is at the SR 237 overpass. From the 237 overpass, the pipe continues north under the sidewalk in North Main Street, then turns east in Railroad Avenue where it continues out to Los Coches Creek. The North Main

[1] The certified Final Environmental Impact Report (SCH #2004082131) for the North Main Street Development Project is hereby incorporated by reference and is available for public review at the City of Milpitas, Planning Division, 455 E. Calaveras Blvd., Milpitas, CA 95035-5411, during normal business hours.

Street development project included the replacement and relocation of the portion of the old Caltrans CMP pipe that is within and under the sidewalk of North Main Street, to make way for the new development.

The NMSD project storm drain work extended from Carlo Street north to Weller Lane. Upon review of the storm drain, the City Public Works staff discovered that it does not drain properly and is continually half full of silt. The reason for this is there is not enough fall in the pipe; the difference in elevation from the outfall to the manhole in Weller Lane is only six inches. The result is that the outfall will actually back-feed from the creek. The existing CMP is very large, because it is storing runoff. Once the condition of the storm drain system was understood, the Public Works staff realized a better drainage condition would be required. It was determined that by extending the storm line down Marylinn Drive to the existing outfall almost two feet in elevation difference would be gained, allowing for a better draining system.

II. *Description of Current Project*

The Current Project extends the North Main Street storm drain in Marylinn Drive past Railroad Avenue to just south of Berryessa Street, where it will extend under an gravel maintenance road to the existing Los Coches Creek outfall. The existing outfall has failed riprap and flap gate that will be replaced as part of the project. The existing 18-inch diameter outfall will be replaced with a 32-inch by 49-inch elliptical pipe, which is equivalent to a 39-inch diameter outfall. The proposed work along the creek bank will be limited to replacement of the existing outfall and associated bank armoring (approximately 122 square feet). The bank armoring will not extend beyond the limits of existing hardscape on the creek bank.

ENVIRONMENTAL IMPACTS OF PROPOSED CHANGES TO THE PROJECT

The discussion below describes the environmental impacts of the Current Project, as they compare with the impacts of the approved project analyzed in the EIR. Also noted are any changes that have occurred in the environmental setting that would result in new impacts or impacts of greater severity than those identified in the previously certified EIR.

I. *Aesthetics*

The previously certified EIR found that the NMSD Project would result in a less than significant aesthetics impact, with the exception of the creation of new light sources. The proposed storm drain replacement project would not degrade the existing visual character; nor would it increase night lighting. Therefore, it would not create a new impact; nor would it worsen an already identified aesthetics impact.

II. *Agricultural Resources*

The project site is within an urbanized area; agricultural or farmland uses do not exist on or adjacent to the project site. Neither the approved project, nor the Current Project would impact agricultural resources.

III. *Air Quality*

The previously certified EIR found that the NMSD Project would result in significant unavoidable regional air quality impacts and significant construction-related air quality impacts that could be mitigated to a less than significant level. The Current Project would not generate long-term vehicle trips; therefore it would not worsen previously identified regional air quality impacts. The Current Project would include the same standard dust control mitigation measures (EIR Mitigation Measure AIR-1) as the approved project to reduce construction air quality impacts to a less than significant level.

IV. *Biological Resources*

The previously certified EIR concluded that no biological impacts would result from development of the largely developed project area. Biological surveys of the Los Coches Creek outfall area were conducted by *H.T. Harvey & Associates* in February 2006. An assessment of the existing conditions and potential impacts of the Current Project are attached to this Addendum and are summarized below.

No riparian or wetland habitat occurs within or adjacent to the impact area of the outfall project. Existing sacked concrete riprap lines the immediate project area. Beyond the riprap, the west bank is vegetated with weedy upland/riparian species and non-native annual grasses colonize the top of bank. No state or federally listed threatened or endangered species are expected to occur on the site.

The project site is not within designated Critical Habitat for California red-legged frog. The reach of Los Coches Creek that occurs at the project site provides marginally suitable habitat for the California red-legged frog; however, breeding is not expected due to the presence of predators. Given the relative distance to the nearest population and the degree of urbanization between this population and the site, it is considered to be an extremely low possibility that a California red-legged frog could be washed down to the site. Given the abundance of both aquatic and terrestrial predators (e.g., bullfrogs, sunfishes and raccoons) in this urbanized reach, any such dispersants are

unlikely to survive long. The proposed outfall repair work will occur sometime during the dry season (April 15 - October 15) when flows within the creek are expected to be low and potential impacts to downstream water quality would be minimal. The proposed work along the creek bank will be limited to replacement of an existing outfall and associated bank armoring. In addition, the proposed work footprint for the outfall repair is relatively small (approximately 122 square feet) and will not extend beyond the limits of existing hardscape along the creek bank. The work will not involve filling of in-channel pools or the removal of emergent or streamside woody vegetation. For the above reasons, the Current project will not result in impacts to California red-legged frog.

The willows and cattails along the bank in the project area provide potential nesting habitat for migratory birds and raptors, bird species that are protected by the federal Migratory Bird Treaty Act and California Fish and Game Code. Similar to the standard construction measure included in the Midtown Specific Plan EIR, a pre-construction survey of the outfall area will be conducted by a qualified ornithologist if construction is to occur during the nesting season (February 1 through August 31) to ensure that no nests will be disturbed during project implementation. This survey will occur no more than 14 days prior to start of construction between February and April, and no more than 30 days prior to start of construction May through August. If a nest is found sufficiently close to work to be disturbed, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to the established around the nest, typically 250 feet, to ensure that no nests will be disturbed during project implementation. With implementation of this standard construction measure, the Current Project will not result in any new biological impact.

V. *Cultural Resources*

The project area is sensitive for prehistoric and historical archaeological deposits and the certified EIR found that implementation of the NMSD Project could result in significant impacts to archaeological resources, may disturb human remains, and could adversely affect paleontological resources. Similar to the approved project, the Current Project will implement an archaeological monitoring and treatment program, as defined in EIR Mitigation Measures CULT-5, CULT-6, CULT-7a, and CULT-7b, to reduce effects of the proposed project on cultural resources to a less than significant level.

VI. *Geology and Soils*

There are no soils or geologic features present on the site that would result in significant geologic impacts from the approved project or the Current Project.

VII. *Hazards and Hazardous Materials*

Locations of soil contamination addressed in the NMSD Draft EIR were over 1,000 feet south of the proposed outfall site. If, during construction of the Current Project, any signs of soil or groundwater contamination are detected, construction will stop and a Risk Management Plan will be prepared and implemented, as described in DEIR Mitigation Measure HAZ-1. Construction of the Current Project is not expected to use or transport hazardous materials that could result in accidental releases.

VIII. *Hydrology and Water Quality*

The project reach of Los Coches Creek is confined within an earthen channel with steep, near vertical banks. Approximately one-half mile downstream of the outfall location, the channel ends and flows from the creek are pumped into the East Penitencia Canal, which becomes Lower Penitencia Creek. Lower Penetencia Creek discharges to the South Bay via the tidal portion of Lower Coyote Creek.

The certified EIR found that development on the site would not result in a risk of flooding, and the amount of impervious surface area would not increase as a result of the project; therefore, the project would not increase the amount of runoff to the City's stormwater drainage system. Similar to the approved project, the Current Project would comply with standard City practices and applicable provisions of the Clean Water Act with regard to preparing a stormwater discharge plan and minimizing surface water quality impacts during project construction and operation. Through conformance with these standards, the Current Project would not result in significant impacts on construction related or long-term impacts to surface or groundwater quality.

Under existing conditions, the 18-inch outfall has a 10-year storm flow of 5 cubic feet per second (cfs) at a velocity of 2.8 feet per second (fps), and a 100-year storm flow of approximately 10 cfs at a velocity of 6 fps. With the Current project, the 39-inch outfall will have a 10-year storm flow of 12 cfs at a velocity of 1.5 cfs, and a 100-year storm flow of approximately 26 cfs at a velocity of 3 fps. So while the volume of flow exiting the outfall will be greater than under existing conditions, the velocity will be less. Therefore, the Current Project would not result in increased erosion and sedimentation of the creek channel.

The certified EIR prepared for the approved project identified that construction activities associated with the project would result in degradation of surface water quality by reducing the quality of stormwater runoff. Mitigation measures (HYD-1) called for each project proponent to prepare a SWPPP including specific and detailed BMPs designed to minimize construction-related pollutants. Similar to the approved project, the Current project will implement BMPs during construction to reduce impacts to stormwater runoff water quality.

IX. *Land Use and Planning*

The Current Project is a slight revision to the already approved NMSD Project and would not result in any change in land use in the area. No significant land use impact was identified for the approved project, and no impact is identified for the Current Project.

X. *Mineral Resources*

The project site is located in a built-out urbanized area that has no known existing mineral resources. Neither the approved project, nor the Current Project, therefore, would result in impacts to mineral resources.

XI. *Noise*

The Current Project will not cause increases in long-term noise levels. Construction of the Current Project will result in construction noise impacts similar to those addressed in the Draft EIR (Impact NOISE-1) and standard construction requirements will be implemented during construction to reduce noise impacts to a less than significant level (Mitigation Measure NOISE-1).

XII. *Population and Housing*

The Current Project is a slight infrastructure change to the already approved NMSD Project and would not result in any change in population or housing in the area.

XIII. *Public Services, Utilities and Service Systems*

The Current Project is a refinement of the storm drainage improvements envisioned in the NMSD Project and EIR. The Current Project will result in improved storm drainage in the project area. The Current Project will not result in any impacts related to the provision of or increased demands upon public services, utilities or service systems.

XIV. *Transportation/Traffic*

The Current Project will not result in any impacts related to traffic or transportation systems.

CONCLUSION

Based on the above analysis and discussion, no substantive revisions are needed to the 2005 FEIR, because no new significant impacts or substantially more impacts would result from the Current Project; because there have been no changes in circumstances in the project area that would result in new significant environmental impacts or substantially more severe impacts; and because no new information has come to light that would indicate the potential for new significant impacts or substantially more severe impacts than were discussed in the 2005 FEIR. Therefore, no further evaluation is required, and no Supplemental or Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162, and an Addendum has therefore appropriately been prepared, pursuant to Section 15164.

PREPARED BY:

Judy Shanley
David J. Powers & Assoc., Inc.

Judy W. Shanley

Signature

XX February 2006

Date

APPROVED BY:
Tom Williams
Director of Planning

Signature

Date